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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,369	04/01/2004	Heribert Schwarz	ZTP01P15115	9730

24131 7590 11/03/2005  
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EXAMINER

TILL, TERRENCE R

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/816,369	SCHWARZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Terrence R. Till	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/1/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

Please note that the previous Office Action has been vacated and the following Office action applies. This is in response to Applicant's representatives request to supply the patents to Yip, Prahla and Kuwahara that were omitted from the Notice of References Cited, PTO-892.

#### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 11 depends on claim 1 and recites "at least one additional filter". Claim 1 does not recite a filter element. Therefore, it is confusing for claim 11 to recite an additional filter element when no first filter element has been previously recited.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by German patent to Zelmer '345 (cited in IDS).

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6. Zelmer discloses all the recited subject matter of a device for sucking up particles to be collected, the device comprising: at least one collection chamber 3 for accumulating the particles; a suction device 6; at least one reception chamber 5 storing said suction device; a partition 8 separating said collection chamber from said reception chamber and having a partition surface, said partition having an entry orifice 27 formed therein for channeling an air stream from said collection chamber to said suction device, said entry orifice of said partition coupling said collection chamber to said suction device in reception chamber; and an air guide funnel (see figures 1 and 3) having an entry surface forming a part of said partition surface. The air guide funnel is provided, said partition with respect to said entry surface, in such that an approximately straight suction air stream is provided from suction device in said collection chamber to said reception chamber, and said air guide funnel is considered to have a substantially rectangular entry surface on a same side as said collection chamber. Said air guide funnel narrows largely continuously in a direction of said suction device, and said suction device has a blower with an entry orifice formed therein; and said air guide funnel has an exit surface having a substantially circular configuration and a diameter entry orifice of said corresponding substantially to said blower of said suction device (see round element 12 and how element 8 corresponds to 12). Additionally, said air guide funnel is integrated as an independent structural part into said partitions well as form a one-piece jointly produced structural part. Zelmer additionally discloses said air guide funnel has a funnel bottom and an intervention guard element 28 projecting in a direction of said collection chamber disposed in said funnel bottom. The intervention guard element is a dome-shaped ribbed body having gaps formed therein for a largely unobstructed routing of the air stream from said collection space through to said suction device (see figure 3).

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Zelmer further discloses a filter bag (outline shown in figure 1) disposed in said collection space for accumulating the particles and at least one additional filter element 24 for purifying the air stream from said collection chamber to said suction device, said additional filter element is disposed upstream of said entry surface of said air guide funnel.

7. Claims 1, 2, 4-6, 8, 9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by German patent to Thode '005 (cited in IDS).

8. Thode discloses all the recited subject matter of a device for sucking up particles to be collected, the device comprising: at least one collection chamber 4 for accumulating the particles; a suction device 8; at least one reception chamber 6 storing said suction device; a partition 15 separating said collection chamber from said reception chamber and having a partition surface, said partition having an entry orifice 10 formed therein for channeling an air stream from said collection chamber to said suction device, said entry orifice of said partition coupling said collection chamber to said suction device in reception chamber; and an air guide funnel 11 having an entry surface forming a part of said partition surface. The air guide funnel is provided, said partition with respect to said entry surface, in such that an approximately straight suction air stream is provided from suction device in said collection chamber to said reception chamber, Said air guide funnel narrows largely continuously in a direction of said suction device, and said suction device has a blower with an entry orifice formed therein; and said air guide funnel has an exit surface having a substantially circular configuration and a diameter entry orifice of said corresponding substantially to said blower of said suction device. Additionally, said air guide funnel is integrated as an independent structural part into said partition. Thode additionally discloses said air guide funnel has a funnel bottom and an intervention guard

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element 17 projecting in a direction of said collection chamber disposed in said funnel bottom.

The intervention guard element is a dome-shaped ribbed body having gaps formed therein for a largely unobstructed routing of the air stream from said collection space through to said suction device.

9. Claims 1-8 and 12 are rejected under 35 U.S.C. 102(a) as being anticipated by Yip.

10. Yip discloses all the recited subject matter of a device for sucking up particles to be collected, the device comprising: at least one collection chamber 8 for accumulating the particles; a suction device 40,50; at least one reception chamber 30 storing said suction device; a partition 12 separating said collection chamber from said reception chamber and having a partition surface, said partition having an entry orifice 20 formed therein for channeling an air stream from said collection chamber to said suction device, said entry orifice of said partition coupling said collection chamber to said suction device in reception chamber; and an air guide funnel 22 having an entry surface forming a part of said partition surface. The air guide funnel is provided, said partition with respect to said entry surface, in such that an approximately straight suction air stream is provided from suction device in said collection chamber to said reception chamber, and said air guide funnel is considered to have a substantially rectangular entry surface on a same side as said collection chamber. Said air guide funnel narrows largely continuously in a direction of said suction device, and said suction device has a blower with an entry orifice formed therein; and said air guide funnel has an exit surface having a substantially circular configuration (see figure 3, behind lattice 98 the fan opening appears round) and a diameter entry orifice of said corresponding substantially to said blower of said suction device. Additionally, said air guide funnel is integrated as an independent structural part into said partition.

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11. Claims 1, 2, 4-7, 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Prael et al.

12. Prael discloses all the recited subject matter of a device for sucking up particles to be collected, the device comprising: at least one collection chamber 11 for accumulating the particles; a suction device 20,36; at least one reception chamber 12 storing said suction device; a partition 14 separating said collection chamber from said reception chamber and having a partition surface, said partition having an entry orifice 15 formed therein for channeling an air stream from said collection chamber to said suction device, said entry orifice of said partition coupling said collection chamber to said suction device in reception chamber; and an air guide funnel 58 having an entry surface forming a part of said partition surface. The air guide funnel is provided, said partition with respect to said entry surface, in such that an approximately straight suction air stream is provided from suction device in said collection chamber to said reception chamber, Said air guide funnel narrows largely continuously in a direction of said suction device, and said suction device has a blower with an entry orifice formed therein; and said air guide funnel has an exit surface having a substantially circular configuration and a diameter entry orifice of said corresponding substantially to said blower of said suction device. Additionally, said air guide funnel is integrated as an independent structural part into said partition. Additionally, said air guide funnel is integrated as an independent structural part into said partitions well as form a one-piece jointly produced structural part. Prael further discloses a filter bag 28 disposed in said collection space for accumulating the particles

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yip in view of Kuwahara.

16. Yip discloses all the recited features with exception of intervention guard element projecting in a direction of said collection chamber disposed in said funnel bottom. The patent to Kuwahara discloses a canister-type vacuum cleaner having an intervention guard element 37 blocking the inlet to the reception chamber "a". It would have been obvious to a person skilled in the art at the time the invention was made to provide the device of Yip with an intervention guard element in view of the teaching of Kuwahara so that a user's hand will not be inadvertently sucked into the fan blades.



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*Conclusion*

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Bishop, Thomas et al., Osborn et al., Osterdahl, and German clipped image to Bott show the current state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sun U. Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Terrence R. Till  
Primary Examiner  
Art Unit 1744

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